

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ERIC CHAVEZ,**

**Plaintiff,**

**v.**

**No. 19-cv-0447 BRB/SMV**

**DAVID ANTHONY MORALES and  
IVAN OSWALDO GARCES MARTINEZ,**

**Defendants.**

**ORDER GRANTING IN PART AND DENYING IN PART  
PLAINTIFF'S MOTION TO COMPEL**

THIS MATTER is before the Court on Plaintiff's Motion to Compel [Doc. 23], filed on January 3, 2020. Defendants responded on January 21, 2020. [Doc. 27]. Plaintiff replied on January 31, 2020. [Doc. 30]. The Court held oral argument on the Motion on February 19, 2020. [Doc. 35] (clerk's minutes). The Court has considered the briefing, the relevant portions of the record, the relevant law, and the oral argument. For the reasons stated on the record at the February 19, 2020 oral argument, the Court will reserve ruling on part of the Motion and will GRANT IN PART and DENY IN PART the remainder of the Motion.

The Court DENIES the Motion with respect to Plaintiff's request that the Court order production of sexual risk-indicator assessments in response to Request for Production #1. In all other respects, the Court GRANTS the Motion as to Request for Production #1.

The Court reserves ruling on the Motion to the extent that it seeks production, under Request for Production #5, of a prior Prison Rape Elimination Act complaint file against Defendant Morales. Based on defense counsel's representations, this complaint may not be


relevant to any claims or defenses. Yet, the Court will review the complaint file *in camera* to determine whether it is relevant. If the complaint file is relevant, the Court will order its production.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Plaintiff's Motion to Compel [Doc. 23] is **GRANTED IN PART** and **DENIED IN PART**.

**IT IS FURTHER ORDERED** that Defendants produce all documents in their possession or control responsive to Request for Production #1, except the sexual risk-indicator assessments, no later than **March 5, 2020**.

**IT IS FURTHER ORDERED** that Defendants send a copy of the prior Prison Rape Elimination Act complaint file regarding Defendant Morales to chambers no later than **February 21, 2020, at 5:00 p.m.** The Court reserves ruling on whether it will compel production of this document under Request for Production #5 until after it reviews the complaint *in camera*.

**IT IS SO ORDERED.**

  
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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**